

MEMO ENDORSED

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February 24, 2012

BY FACSIMILE

The Honorable P. Kevin Castel, U.S.D.J.
Daniel Patrick Moynihan
United States Courthouse
Courtroom 12C
500 Pearl Street
New York, NY 10007-1412

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Docket in both cases

Re: *Wireless Ink v. Facebook, et al.*, Cases Nos. 10 Civ. 1841 (PKC) and Civ. 1751 (PKC)

Dear Judge Castel:

Counsel for all parties submit this joint letter concerning an extension of the close of fact discovery in the above-captioned cases.¹ The parties have previously been granted one extension of discovery from December 30, 2011 to February 29, 2012, which is the current deadline. (D.I. 71). The other deadline currently scheduled is the close of expert discovery, which has been set for May 31, 2012.

The parties jointly request an extension as to fact and expert discovery dates, so that they may complete discovery, including the depositions of party and non-party witnesses. In addition, there may be some additional matters in discovery due to potential settlement between Plaintiff and at least one of the Defendants, and an extension of the discovery deadline would allow for any relevant matters with respect to such a settlement to be handled efficiently. The parties further respectfully request that the date for filing Pretrial Submissions be set for thirty (30) days from the Court's decision on all summary judgment motions or denial of parties' requests to file summary judgment motions. This will alleviate the burden on both the Court and parties associated with preparing for trial any issues that can be resolved on summary judgment.

The parties respectfully request the Court modify the current schedule as reflected in the chart below:

¹ The parties have attached a Proposed Revised Case Management Plan and Scheduling Order per the Court's Individual Practices as Ex. A to this letter.

The parties proposed dates for fact and expert discovery and expert reports are approved. Pre-note letters on summary judgment are due July 27, 2012. March 16 conference is vacated. Next conference is August 3 at 11am. SO ORDERED. JLI 2-24-12

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Event	Current Dates	Parties' Proposed Dates
Close of Fact Discovery	February 29, 2012	March 30, 2012
Opening Expert Reports	TBD	May 4, 2012
Rebuttal Expert Reports	TBD	June 8, 2012
Close of Expert Discovery	May 31, 2012	July 13, 2012
Preliminary submission date		30 days after the Court's decision on all summary judgment motions or denial of the parties' request to file summary judgment motions

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The parties currently disagree as to the most efficient deadline for submission of pre-motion letters with respect to summary judgment. Plaintiff proposes that this deadline be April 13, 2012, two weeks after the close of fact discovery per the Court's original scheduling order and normal practices. Defendants respectfully request that the deadline for submitting pre-motion letters regarding summary judgment be July 27, 2012 (fourteen days after the close of expert discovery) so that the parties may take into account any testimony of experts.

There is a Case Management Conference set for March 16, 2012. The parties are available on that date to discuss these or any other issues, should the Court desire.

Respectfully submitted,

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